

Order

Michigan Supreme Court
Lansing, Michigan

January 10, 2006

Clifford W. Taylor,
Chief Justice

ADM File No. 2004-32

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Amendment of Rules 9.223
and 9.224 of the
Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments of Rules 9.223 and 9.224 of the Michigan Court Rules are adopted, effective May 1, 2006.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

Rule 9.223 ~~Certification to Supreme Court~~ Filing and Service of Documents by Commission

~~(A) Filing and Service of Documents by Commission.~~ Within 21 days after entering an order recommending action with regard to a respondent, the commission must take the action required by subrules (A) and (B).

~~(1)(A)~~ Filings in Supreme Court. The commission must file in the Supreme Court:

~~(a)~~ (1) the original record arranged in chronological order and indexed and certified;

~~(b)~~ (2) 24 copies of the order; and

~~(c)~~ 24 copies of an appendix; and

~~(d)~~ (3) a proof of service on the respondent;

~~(2)(B)~~ Service on Respondent. The commission must serve the respondent with:

~~(a)~~ (1) notice of the filing under MCR 9.223(A)(1);

- (b2) 2 copies of the order ~~and appendix~~;
 - (e3) 2 copies of the index to the original record; and
 - (d4) a copy of a portion of the original record not submitted by or previously furnished to the respondent.
- (B) ~~Contents of Appendix. The appendix must include, in chronological order:~~
- (1) ~~an index;~~
 - (2) ~~all pleadings, including those filed with a master;~~
 - (3) ~~all orders, including those issued by a master;~~
 - (4) ~~all reports, findings of fact, and conclusions of law made by the commission or a master; and~~
 - (5) ~~other material necessary to fairly judge the issues.~~

Rule 9.224 Review by Supreme Court

- (A) Petition by Respondent. Within 28 days after being served, a respondent may file in the Supreme Court 24 copies of
- (1) [Unchanged.]
 - (2) an appendix presenting portions of the record ~~not included in the commission's appendix~~ that the respondent believes necessary to fairly judge the issues.
- The respondent must serve the commission with 3 copies of the petition and 2 copies of the appendix and file proof of that service.
- (B) Brief of Commission. Within 21 days after respondent's petition is served, the commission must file
- (1) 24 copies of a brief supporting its finding, and
 - (2) proof that the respondent was served with 2 copies of the brief.

The commission may file 24 copies of an appendix containing portions of the record not included in the respondent's appendix that the commission believes necessary to fairly judge the issues.

(C)-(F) [Unchanged.]

Staff Comment: The amendment of MCR 9.223 eliminates the requirement that the Judicial Tenure Commission file an appendix with its recommendation for discipline against a judge.

The amendment of MCR 9.224(A) requires the respondent judge to file an appendix if the respondent files a petition to reject or modify the commission's decision. The amendment of 9.224(B) allows the Judicial Tenure Commission to file a supplemental appendix with its brief in response to a respondent judge's petition.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 10, 2006

Corbin R. Davis
Clerk